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1995

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EX PARTE

August 7, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

RE: In the Matter of Price Cap Performance Review for Local Exchange Carriers
CC Docket No. 94-1

Dear Mr. Caton:

Today representatives of Sprint Corporation met with Ms. Karen Brinkman, Mr. Anthony Bush and Mr. Les Seltzer of the Common Carrier Bureau to discuss Sprint's position on issues in the Further Notice of Proposed Rulemaking in the above referenced docket. The attached describes the contents of the discussion.

Representing Sprint Corporation were Messrs. Jay C. Keithley, John Ivanuska, Dick Juhnke and Ms. Sue McCanless. Sprint requests that this information be made a part of the record in this matter. Two copies of this letter, in accordance with Section 1.1206(a)(1), is provided for this purpose. If you have any questions, please feel free to call.

Sincerely,

Jay C. Keithley

Jay C. Keithley

Attachment

cc: Karen Brinkman
Anthony Bush
Les Seltzer

No. of Copies rec'd 0+2
List A B C D E

FNPRM Issues

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August 7, 1995

Characteristics of the Emerging Environment

- Little actual competition exists today.

- The industry will be characterized by a mixture of competitive and monopoly markets over an extended transitional period.

- Degree of competition will vary
  - By service category (loop, transport, switching)
  - By geographic area
  -

- Strong pressures for repricing
  - Overall price levels
  - Rate structures (deaveraging)

Public Policy Objectives

1. Promotion of effective competition to ultimately supplant need for regulation

2. Move towards economically efficient rates
   - Elimination of cross-subsidies
   - Rates that reflect underlying cost characteristics (e.g., zone density)

3. Continuation of Universal Service in a competitively neutral manner
   - No market participant should be advantaged or disadvantaged due to Universal Service/carrier of last resort obligation
   - Universal Service policies should not preclude open entry or economically efficient pricing

4. Protection of monopoly service customers
   - LEC competitive pricing responses should not be financed by customers in markets where competition does not exist

Transitional Regulatory Framework

- The degree of pricing flexibility/flexibility to respond to competition should be contingent on the degree to which a market is competitive
- Significant pro-competitive reforms can take place even before competition evolves

Status of Competition	Pricing Reforms/Competitive Response Flexibility	Applicability
None	• Rates reflecting underlying cost characteristics - Immediate implementation of zone density (transport and switching) • Eliminate explicit cross-subsidies - RIC (target part of productivity offset to eliminate RIC) - CCLC	• All Price Cap LECs
Barriers to entry eliminated	• Greater downward pricing flexibility • Ability to respond to customer initiated RFPs (with requirement to make same offer generally available. • Consideration of alternative structures through Part 69 waiver process	• Selection of no sharing option a prerequisite • Service specific
Fully effective competition	• Removal of service from Price Caps • Streamlined tariff filing/review - One day notice - Presumptively lawful • Customer specific pricing • Eliminate Part 69 constraints (i.e., waiver requirement) for new services	• Selection of no sharing option a prerequisite • Service specific • Wire Center or exchange specific

Entry Barrier Test (Transport)

- Virtual collocation at tandems, central offices, and serving wire centers at cost-based rates

- Equal access to public rights of way

Entry Barrier Test (Loop)

- Franchise and Entry Requirements
  - Abolish federal, state or local restrictions that limit or prohibit competitors from offering a full range of local loop services, or regulatory requirements that unreasonably restrict local loop market entry
    - *No exclusive franchises*
    - *No need to prove existing services are inadequate*
    - *No discrimination against new market entrants*
    - *Equal access to rights of way*
    - *No unreasonable requirements for market entry*
    - *Quid pro quos should not be a condition of market entry*

Entry Barrier Test (Loop)

- Interconnection and Compensation
  - New market entrants should be interconnected with incumbent providers seamlessly in a manner that does not create an economic barrier to competition
    - *Reasonable compensation for call termination*
    - *Uniform standards and administrative interconnection*
    - *Service unbundling*
    - *Nondiscriminatory Virtual Collocation*

Entry Barrier Test (Loop)

- Disaggregation and unrestricted resale and sharing of loop

Entry Barrier Test (Switching)

- Franchise and Entry Requirements
  - Abolish federal, state or local restrictions that limit or prohibit competitors from offering a full range of switching services, or regulatory requirements that unreasonably restrict switched market entry
    - *No exclusive franchises*
    - *No need to prove existing services are inadequate*
    - *No discrimination against new market entrants*
    - *Equal access to rights of way*
    - *No unreasonable requirements for market entry*
    - *Quid pro quos should not be a condition of market entry*

Entry Barrier Test (Switching)

- Interconnection and Compensation
  - New market entrants should be interconnected with incumbent providers seamlessly in a manner that does not create an economic barrier to competition
    - *Reasonable compensation for call termination*
    - *Uniform standards and administrative interconnection*
    - *Service unbundling*
    - *Nondiscriminatory Virtual Collocation*

Entry Barrier Test (Switching)

- Numbering Resource Issues
  - Nondiscriminatory access to numbering resources is critical to switching and loop competition
    - *Access to telephone numbers generally*
    - *True number portability (service provider portability)*
    - *Access to and inclusion in DA, LIDB, AIN, 800, and other databases and telephone directories*
    - *Access to 911, TRS, and local operator services*
    - *Nondiscriminatory number administration*

<u>Criteria for Effective Competition</u>

- Market share test

  One possibility: Using the Commission's criteria for cable companies

  - At an exchange level: 50% of the service category in the relevant market has an alternative source of supply <u>available</u> to it AND 15% of the relevant market <u>actually takes</u> the alternative in the exchange

  - At a wire center level: 50% of the service category in the relevant market has an alternative source of supply <u>available</u> to it AND 30% of the relevant market <u>actually takes</u> the alternative in the wire center

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SPRINT/CAP ACTIVITY:

REALITY OF LIMITATIONS

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OUTLINE OF DISCUSSION ITEMS

- ⇨NETWORK OPTIMIZATION: NEW YORK CITY LATA 132
- ⇨REVENUE IMPACT ON ACCESS PROVIDERS; SAVINGS TO SPRINT
- ⇨SUMMARY

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NETWORK OPTIMIZATION: NEW YORK CITY LATA 132

NYC LATA RECONFIGURATION

- ⇨ LATA 132 CHOSEN FOR OPTIMIZATION BASED ON CIRCUIT VOLUME AND ACCESS COST
- ⇨ LEC VENDOR AS SOLE SOURCE
- ⇨ LEC LACK OF CUSTOMER FOCUS
- ⇨ COMPETITIVE ALTERNATIVE AVAILABLE IN NYC
- ⇨ TCG SELECTED AS VENDOR OF CHOICE
  - ✓ RESPONSIVENESS TO SPRINT'S BUSINESS ISSUE

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NETWORK OPTIMIZATION: NEW YORK CITY LATA 132

IMPLEMENTATION REQUIREMENTS

- ⇨ REGULATORY HURDLES
- ⇨ LTR RECONFIGURATION
- ⇨ POP DECOMMISSIONING
- ⇨ CUSTOMER NOTIFICATION
- ⇨ MULTI-VENDOR MANAGEMENT
- ⇨ NON-RECURRING CHARGES

OPTIMIZATION BEGAN 11/92 -- STILL IN PROGRESS...

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NETWORK OPTIMIZATION: NEW YORK CITY LATA 132

SPECIAL ACCESS CIRCUITS TRANSITIONED TO CAP

- ⇨ 50% OF SPRINT SPECIAL ACCESS DS1S AND 40% OF DS0S TRANSITIONED TO CAP, HOWEVER
- ⇨ 67% OF CAP DS1 CIRCUITS ARE TYPE II
- ⇨ 98% OF CAP DS0 CIRCUITS ARE TYPE II

SWITCHED ACCESS CIRCUITS

- ⇨ 100% OF SWA DIRECT TRUNK TRANSPORT CIRCUITS AND OVERFLOW GROUPS TO TANDEM FROM COLLOCATION NODES ARE ALL PROVIDED BY NYNEX
- ⇨ TCG PROVIDES DS3 FACILITITES FOR SWITCHED AND SPECIAL ACCESS FROM COLLOCATION NODES AND SECONDARY POPS TO SPRINT'S BACKBONE POP ("PIPES" WHICH EXTEND SPRINT'S NETWORK)

REVENUE IMPACT ON ACCESS PROVIDERS

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SPRINT MONTHLY ACCESS PAYMENT BY VENDOR IN LATA 132

- ⇨ NYNEX 97%
- ⇨ TCG 3%
- ⇨ APPROXIMATELY 41% OF TCG'S REVENUE FROM SPRINT IS PASSED THROUGH TO NYNEX
- ⇨ NYNEX CONTINUES TO RECEIVE PER MOU REVENUE UNDER EXPANDED INTERCONNECTION:
  - ❐ RIC .010678
  - ❐ CCLC .006824
  - ❐ LS .014173

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SUMMARY

FULLY COMPETITIVE CONDITIONS, OR ANYTHING CLOSE TO FULLY COMPETITIVE CONDITIONS, DO NOT EXIST IN THE LOCAL ACCESS ARENA

CAP NETWORKS ARE NOT UBIQUITOUS, AND SO COMPETITIVE ALTERNATIVES AVAILABLE TO ACCESS CUSTOMERS ARE EXTREMELY LIMITED

EVEN IN THE MOST FULLY COMPETITIVE CIRCUMSTANCES, SUCH AS LATA 132, THE LEC RETAINS THE VAST MAJORITY OF ITS REVENUE STREAM THROUGH THE CAPS' USE OF, AND PAYMENT FOR, LEC FACILITIES AND BECAUSE OF THE LEC MONOPOLY POSITION IN SWITCHING

ESSENTIAL ELEMENTS OF LOCAL TELEPHONE COMPETITION

1. FRANCHISES AND ENTRY REQUIREMENTS

Federal, state or local restrictions that limit or prohibit competitors from offering a full range of local telephone services and regulatory requirements that unreasonably restrict market entry must be abolished. Specifically:

- ***No Exclusive Franchises*** -- No firm should have an exclusive franchise, license or certificate to provide local telephone service.
- ***No Need to Prove Existing Services are Inadequate*** -- No new market entrant should have to prove that the incumbent's service is inadequate as a prerequisite to offer competing local telephone service.
- ***No Discrimination Against New Market Entrants*** -- No laws or regulations should impose more onerous requirements on new market entrants than apply to incumbent telephone companies or discriminate against new market entrants. However, that does not mean that new market entrants should be subject to the same regulatory requirements as the incumbent local telephone company (see below).
- ***Equal Access to Rights of Way*** -- Any exclusive or preferential treatment of pole, conduit and rights-of-way of the incumbent local telephone company must be eliminated so that new entrants have access to those rights of way on the same rates, terms and conditions as the incumbent.
- ***No Unreasonable Requirements for Market Entry*** -- Entry into a local telephone market should not be artificially restricted by unreasonable requirements imposed on new market entrants (*e.g.*, requirements to offer facilities-based service to 100% of a given geographic area, excessive performance bonds, extended certification processes).
- ***Quid Pro Quos should not be a Condition of Market Entry*** -- Entry into a local telephone market should not be contingent on actions of the incumbent local telephone company or unreasonably delayed by lengthy, cumbersome regulatory proceedings concerned with ill-defined, open-ended issues (e.g., no local competition authorized until and unless the incumbent local telephone company realigns its current rates, or no local competition until and unless a comprehensive universal service protection/subsidy replacement plan has been developed, debated and adopted by regulators)

2. Interconnection & Compensation

Interconnection of local telephone networks at reasonable rates is critical to local telephone competition. Competing networks should be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing anything out of the ordinary. New market entrants should be interconnected with incumbent providers in a manner that gives them seamless integration into and use of local telephone company signalling and interoffice networks in a manner equivalent to that of the incumbent local telephone company.

- ***Reasonable Compensation for Call Termination*** -- Mutual compensation for call termination should be set at a level that encourages the development of competition and interconnection while covering the associated costs. Compensation should:
  - ***Be economically viable*** -- not set at a level that makes provision of competing local service uneconomic (e.g., set at a level greater than the market price of local service);
  - ***Be administratively efficient and minimize carrier conflicts*** -- structures that are simple and easy to verify (e.g., flat rate charges);
  - ***Create incentives for competitive infrastructure development*** -- reward greater investment in infrastructure development by local telephone company competitors;
  - ***Minimize competitive distortions*** -- not discourage entry into all segments of the market;
  - ***Not be a source of universal service subsidy*** -- should not be designed to produce contribution, subsidies, or universal service support;
  - ***Promote competitive innovation*** -- not tied to existing local telephone company price structures so as to force new market entrants to mimic existing pricing structures; and,
  - ***Not mirror existing access charges levels*** -- compensation based on current access charges will be uneconomic.
- ***Uniform Standards and Administrative Interconnection*** -- Basic network functions must be provided in a nationally uniform manner, and conform to quality and interoperability standards. The incumbent must cooperate in ordering, billing, circuit provisioning, maintenance and repair.
- ***Service Unbundling*** -- The incumbent local telephone company's services should reflect an unbundling of service components so that a new market entrant is not forced to purchase services that it does not want in order to obtain essential telecommunications capabilities. Unbundling should be performed in response to a bona fide request.
- ***Collocation*** -- Collocation of facilities to achieve interconnection should reflect two characteristics:
  - ***Collocation at aggregation points*** -- collocation should be made at the local telephone company's primary aggregation points (e.g., tandems, central offices, serving wire centers); and,
  - ***Physical or virtual*** -- collocation can either be physical collocation or virtual collocation that is economically and technically equivalent to physical collocation from the perspective of the interconnector.

3. NUMBERING RESOURCE ISSUES

Non-discriminatory access to numbering resources is critical. The following numbering resource issues are critical:

- ***Access to Telephone Numbers*** -- New entrants should have non-discriminatory access to sufficient blocks of telephone numbers (i.e., access to NXXs) to offer service.

- ***Number Portability*** -- Customers must be able to change service providers and retain the same local telephone number at the same location (service provider number portability) without having to dial extra digits or be burdened by "special" actions in order to achieve number portability. Interim number portability mechanisms, such as remote call forwarding, are an inferior form of number portability that impairs a new market entrant's service, and such impairment should be reflected in interconnection charges.

- ***Access to and Inclusion in DA, LIDB, AIN, 800 and Other Databases and Telephone Directories*** -- Competitive local service providers should be allowed to have their customers' telephone numbers included in telephone directories, directory assistance, LIDB, AIN, 800 and other databases and have access to such resources equal in price, functionality and quality as do incumbent local telephone providers.

- ***Access to 911, TRS and Local Operator Services*** -- Competitive local service providers should have access to 911, relay services and operator services provided by the incumbent local telephone company on the same terms and conditions as enjoyed by the incumbent local telephone company.

- ***Number Administration*** -- Numbering policy must be broadly developed and administered in a competitively neutral manner. The local exchange carrier must not be able to control the administration and assignment of numbering resources. NPA assignments must be handled in a neutral and non-discriminatory manner.

4. UNIVERSAL SERVICE SUPPORT & EMBEDDED SUBSIDIES

- ***Competition and Universal Service***. Local service competition enhances universal service. Competition for access services and competition in the local service market may well stimulate the development of new products, stimulate demand and produce higher revenues and earnings for the incumbent local telephone company just as competition in the interLATA long distance market did for AT&T.

- ***Embedded Subsidies Should be Transitioned Away***. In order to encourage efficient competition in all market segments, it is important to eliminate uneconomic/non-competitive subsidies embedded in telecommunications pricing structures over a reasonable transition period (e.g., reduce access charges that are priced substantially above costs and raise those rates that are substantially below costs.)

- ***Explicit Subsidies***. Subsidies to preserve universal service should have the following characteristics:

  - ***Explicitly Identified***. If subsidies are required, they should be explicitly identified rather than embedded in various prices;

  - ***Needs Based Targeting***. If subsidies are required, they should be needs based either on a showing of low income by consumers or based on service to high cost areas;

  - ***Broad-Based Support***. If subsidies are required, all telecommunications service providers should contribute to such subsidies in a competitively neutral manner based on their telecommunications revenues net of payments to intermediaries;

  - ***Neutral Administration***. Collection and distribution of subsidies should be done by a neutral administrator;

  - ***Only Basic Residential Telephone Service Subsidized***. Only basic residential telephone services should be subsidized, limited to (1) single party local service, (2) access to touch tone dialing, (3) access to carriers of choice, (4) access to operator services; and, (5) access to emergency (911) services.

  - ***Competitive Access to Subsidies***. If subsidies are required, then all competitive local telephone service providers should have the opportunity to receive such subsidies when selected by an eligible customer.

5. Regulation of Incumbents and New Market Entrants

- ***Differential Regulation of Incumbents and New Market Entrants***. As long as there is not parity in the marketplace, there should not be parity in regulation. Regulation of local telephone providers should be a function of market power as well as the incumbent telephone company's ability to leverage its control of essential facilities. As long as the incumbent local telephone provider possesses substantially more market power than new market entrants, it is appropriate to subject the incumbent to greater regulatory oversight.

- ***Elimination of Rate Base Regulation***. Traditional rate-base regulation should be abandoned and replaced with appropriately designed price and service regulation to provide the appropriate incentives as competition emerges. Traditional rate-base, rate of return regulation creates a regulatory predisposition to avoid actions that could affect the incumbent's revenues/earnings (e.g., rules that prohibit competitive entry into local telephone markets) and seek out mechanisms to ensure revenue neutrality for the incumbent (e.g., "make whole" compensation mechanisms in intraLATA toll markets to recover competitive revenue losses). Traditional rate-base regulation also contributes to uneconomic infrastructure investment incentives and discourages efficient pricing and cost reductions. Instead, appropriately styled price and service regulation, with pricing rules to transition rates to more efficient levels, enables local telephone companies to respond to emerging competition, and prevents cross-subsidization and abuse of market power.

- ***Imputation***. In determining the price floor for their competitive services, incumbent local telephone companies should impute in the aggregate the same charges for essential network services and functionality as are paid by their competitors to them for the same services and functionality plus the costs of other services and functionalities actually used by the incumbent telephone company.

- ***Resale & Sharing***. Telecommunications services and functions should be provided without any restrictions on resale and sharing, provided that resale is of the same class of service (e.g., should not be able to repackage and resell local residential services as business services).

- ***Provider of Last Resort***. In a competitive market, there is no provider of last resort, only competitors, all seeking to provide services to customers. Because incumbent local telephone companies typically have universal coverage, even though competitors are entering the market, regulators should continue to restrict incumbent telephone companies from exiting markets or market segments until competitive alternatives become available (i.e., being the carrier of last resort). However, restrictions on market exit should diminish as competition develops.